

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

MICHAEL A. EPSTEIN

PHA 23,636A

SERIAL NO.: 10/615,154

GROUP ART UNIT: 2876

FILED: July 8, 2003

EXAMINER: E. Labaze

USAGE DEPENDENT TICKET TO PROTECT COPY-PROTECTED MATERIAL

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

RESPONSE UNDER 37 C.F.R. 1.116

This is in response to the Office Action mailed May 24, 2004, in which the Examiner finally rejected claims 1 and 27-29 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,708,709 to Rose; claims 2-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Rose in view of U.S. Patent 6,072,757 to Tajiri; and claims 7 and 30 under 35 U.S.C. 103(a) as being unpatentable over Rose in view of Tajiri, and further in view of U.S. Patent 6,314,518 to Linnartz.

Applicant traverses the above rejections and offers the following explanations.

The Rose patent discloses a system and method for managing try-and-buy usage of application programs in which a plurality of user/client computers are connected via a network to an information

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server computer enabling the client computers to selectively acquire copies of programs stored at the information server. To that end, the information server computer includes a memory for storing application programs, while the client computers include a CPU for running an application builder program which checks, for example, the license termination date of the copy of an application program acquired from the information server computer, with the local date of the client computer.

The subject invention concerns the protection of content material stored on a recording medium for removably cooperating with any one of a plurality of playback devices. As claimed in claim 1, the recording medium includes a memory portion for storing the content material, a usage indicator, and a baseline register for enabling a determination of a validity period of the content material based on the usage indicator.

Applicant submits that Rose pertains to a system including a server computer connectable via a network to a plurality of client computers. In order for there to be anticipation under 35 U.S.C. 102(b), "each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference ." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1052 (Fed. Cir. 1987). Applicant therefore asserts that Rose does not show or suggest a recording medium for removably cooperating with any one of a plurality of playback devices, and

that the recording medium comprises a memory portion for storing content material, a usage indicator for recording a measure of usage associated with the content material, and a baseline register for storing at least one baseline-usage indicator for facilitating a determination of a validity period associated with the content material based on the usage indicator.

While the Examiner appears to equate the memory 124 of the server computer with the recording medium of the subject invention, it should be clear that the memory 124 does not contain a usage indicator nor a baseline register, the only possible equivalent being the CPU 107 and the application builder program 112 for checking whether the license expiration date of the downloaded copy of the application program has expired, and these components reside in the client computer, not the server computer, and definitely not the memory 124.

The Tajiri patent discloses an apparatus and method for determining a disk type prior to reproducing data from the disk, in which the CPU in a reproducing device sets up a counter in memory which counts the number of times the focus servo for a laser diode is activated in attempting to determine the disk type.

Applicant submits that the counter of Tajiri is set up in memory of the reproducing device and is not on the disk itself. Further, Tajiri does not supply that which is missing from Rose, i.e., a recording medium for removably cooperating with any one of

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a plurality of playback devices, and that the recording medium comprises a memory portion for storing content material, a usage indicator for recording a measure of usage associated with the content material, and a baseline register for storing at least one baseline-usage indicator for facilitating a determination of a validity period associated with the content material based on the usage indicator.

The Linnartz patent discloses a system for transferring content information and supplemental information relating thereto, which arguably discloses content material which is watermarked and includes a ticket based on a hash value of the watermark. However, Applicant submits that Linnartz does not supply that which is missing from Rose and Tajiri, i.e., a recording medium for removably cooperating with any one of a plurality of playback devices, and that the recording medium comprises a memory portion for storing content material, a usage indicator for recording a measure of usage associated with the content material, and a baseline register for storing at least one baseline-usage indicator for facilitating a determination of a validity period associated with the content material based on the usage indicator.

In view of the above, Applicant believes that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, either individually or collectively, and as such, is patentable thereover.

Applicant believes that this application, containing claims 1-8 and 27-30, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by 
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EXAMINER'S TELEPHONE NUMBER 571-272-2395
ART UNIT 2876
SERIAL NO. 10/615,154


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Enclosed: R116 Response + Cover

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Sir:

Enclosed is an amendment in the above-identified application.

☒ No additional fee is required.

☐ The fee has been calculated as shown below.

CLAIMS AS AMENDED					
	Claims remaining after amendment	Highest number previously paid for	Number extra	Rate	Additional Fee
Total Claims	12 Minus	20 ¹ =	X	\$18 =	\$
Independent Claims	2 Minus	3 ² =	X	\$86 =	\$
Multiple Dependent Claims, if any. If not previously paid, \$290.					\$
Total Additional fee for this amendment =					\$

¹If less than 20, enter 20. ²If less than 3, enter 3.

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Edward W. Goodman, Reg. 28,613
914-333-9611